

March 23, 1998

CASCO BAY ISLAND TRANSIT DISTRICT:
Application for Approval of a Loan
and Pledge of Assets (§§ 902 and 1101)

ORDER

WELCH, Chairman; NUGENT and HUNT, Commissioners

I. SUMMARY OF ORDER

On February 27, 1998, Casco Bay Island Transit District (Casco Bay or District) filed with the Commission its application for authority to issue its bond in a sum not to exceed \$760,000 through Peoples Heritage Bank, at a rate not to exceed 5.25 percent to purchase a new vessel. The debt will be paid over a term not to exceed 10 years. We grant Casco Bay authority to issue its bonds and pledge its assets. We also grant Casco Bay the authority pursuant to 35-A M.R.S.A. § 1101, to sell the M/V Quickwater as this vessel will no longer be necessary or useful in performance of its duties to the public.

II. BACKGROUND

Casco Bay requires these funds to replace the Quickwater, one of its vessels used in its regular route ferry operation. The Quickwater is expensive to maintain and operate. In addition, with an increasing and changing demand for service to Diamond Cove, the Quickwater's capacity (45 passengers) was inadequate. The need to replace the Quickwater provided Casco Bay an opportunity to acquire a new vessel, the Bay Mist. At 80 feet, with a capacity of 380 passengers, the Bay Mist will fall between the District's largest boat, the Machigonne II, and its smaller boats, the Island Romance and Island Holiday. The Bay Mist is being purchased to be integrated into Casco Bay's regular route fleet operation. After it has been renovated (at approximately \$760,000¹ including acquisition, oversight and administration costs), it will provide the District an opportunity to meet its current needs as well as to position the District to meet the long-term needs of its customers. Initially the Bay Mist will serve as a spare vessel and be available for incidental tours and charters.

The District also seeks authority to sell the Quickwater as the boat will no longer be necessary or useful in the performance of its duties to the public. The proceeds of the sale will be put toward

¹ The construction of a similar sized vessel would cost approximately \$1.6-\$1.9 million.

the acquisition of the Bay Mist, expected to be approximately \$100,000.

The Commission typically processes requests for financing approvals and sales of property no longer used and useful as nonadjudicatory proceedings. In this case, four persons have filed petitions to intervene: Olde Port Mariner Fleet Inc. (OPMF), Bay View Cruises, Personal Touch Catering and Mr. Steven DiMillo. The first three identified themselves as competitors of Casco Bay in the tourist cruise business. Mr. DiMillo does not identify his interest. Competitors of utilities lack the requisite interest to be granted intervenor status in this case. See Central Maine Power Company v. Public Utilities Commission, 382 A.2d 302, 313 (Me. 1978). Therefore, these petitions are denied. There are other statutes that govern relations with competitors, including 10 M.R.S.A. § 1101 et seq. (Maine's fair trade and antitrust laws). In addition, recently enacted 35-A M.R.S.A. § 713 allows entities competing with a utility in unregulated markets to file a complaint with the Commission if they believe the utility has an undue competitive advantage. OPMF filed such a complaint and it is being considered in a separate docket, Docket No. 98-161. We will review the intervention letters filed in this docket as part of our consideration of OPMF's section 713 complaint.

Having reviewed the application of the District, together with data filed in support of it, it is the opinion of the Commission that the proceeds of the issuance of the bond are required in good faith for the purposes enumerated in 35-A M.R.S.A. §901. In approving this securities issue, consistent with normal practice and pursuant to § 902(4), the Commission does not imply approval of the District's capital needs or capitalization ratio for ratemaking purposes, nor does this Order limit or restrict the powers of the Commission in determining or fixing any rate. We also approve the sale of the Quickwater pursuant to 35-A § 1101 as the boat will no longer be used for service.

Accordingly, we

O R D E R

1. That the Casco Bay Island Transit District is hereby authorized to issue its bond in a sum not to exceed \$760,000 to be used solely for the purposes described in this Order, and at a rate not to exceed 5.25 per year through the Peoples Heritage Bank for a term not to exceed 10 years.

2. That the Casco Bay Island Transit District report to the Director of Finance, in writing its doings pursuant to this Order within sixty (60) days of the date of the issue of the proposed bond, or by June 25, 1998, whichever may come first.

3. That the Casco Bay Island Transit District is authorized to sell the M/V Quickwater pursuant to 35-A M.R.S.A. § 1101.

4. That a copy of this Order be mailed to the service list and this Docket be closed.

Dated at Augusta, Maine, this 23rd day of March 1998.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Hunt

 Nugent - ABSENT

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Civil Procedure, Rule 73, et seq.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.